

Senate Bill 64

By: Senators Seabaugh of the 28th and Weber of the 40th

# A BILL TO BE ENTITLED

## AN ACT

To amend Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mechanics and materialmen, so as to provide for a special designation for certain liens filed against the wrong real estate; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Part 3 of Article 8 of Chapter 14 of Title 44 of the Official Code of Georgia Annotated, relating to mechanics and materialmen, is amended by revising Code Section 44-14-361.2, relating to the dissolution of a lien, to read as follows:

"44-14-361.2.

(a) The special lien specified in subsection (a) of Code Section 44-14-361 shall be dissolved if the owner, purchaser from owner, or lender providing construction or purchase money or any other loan secured by real estate shows that:

(1) The lien has been waived in writing by lien claimant; ~~or~~

(2) The lien has been filed in error; in such event, the office of the clerk of superior court of the county in which the real estate is located shall designate such a lien as 'filed in error' for the purposes of public record upon receiving a sworn written affidavit from the lien claimant stating that the lien had been filed in error; or

(3)(A) They or any of them have obtained the sworn written statement of the contractor or person other than the owner at whose instance the labor, services, or materials were furnished, or the owner when conveying title in a bona fide sale or loan transaction, that the agreed price or reasonable value of the labor, services, or materials has been paid or waived in writing by the lien claimant; and

(B) When the sworn written statement was obtained or given as a part of a transaction:

(i) Involving a conveyance of title in a bona fide sale;

(ii) Involving a loan in which the real estate is to secure repayment of the loan; or

(iii) Where final disbursement of the contract price is made by the owner to the contractor

there was not of record, at the time of the settlement of the transaction, a valid preliminary notice or claim of lien which had not been previously canceled, dissolved, or expired.

(b) As used in paragraph ~~(2)~~(3) of subsection (a) of this Code section, the term:

(1) 'Person other than the owner' shall not include a subcontractor.

(2) 'Final disbursement' of the contract price means payment of the agreed price between the owner and contractor for the improvements made upon the real estate or the reasonable value of the labor, services, and materials incorporated in the improvements upon the real estate and shall include payment of the balance of the contract price to an escrow agent.

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.